

REMARKS/ARGUMENTS

This is in response to the Office Action dated October 6, 2003.

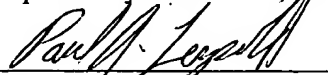
In paragraph 1 of the Office Action, claims 22-28, 33-37, and 39-43 stand rejected under 35 USC 102 as anticipated by Aylward et al. for the same reasons set forth in paragraph 1 of the last Office Action of June 10, 2003. The Examiner states that the argument that Aylward et al. does not qualify as prior art under the 35 USC 102 (e) is unconvincing. The Examiner states that 35 USC 103 paragraph (c) applies only to obvious rejections made under 35 USC 103 and not to rejections under 35 USC 102. This rejection is respectfully traversed.

Pending claim 22 is drawn to a photographic member that has an upper shield layer roughness limitation of between 0.10 and 0.65 micrometers at a spatial frequency of between 0.03 and 6.35 mm. These limitations are not in the Aylward et al. (164) reference. The Examiner's attention is drawn to column 8 lines 5-10 of Aylward et al. where a roughness limitation given is different than that now claimed. Furthermore, there is no spatial frequency number given in Aylward et al. (164). Therefore Alward et al. is not an anticipating reference to the instant invention. As Aylward et al. is not anticipating 35 USC 102 does apply and therefore, it is respectfully requested that the 35 USC 102 rejection be reconsidered and withdrawn.

In paragraph 2 of the Office Action, the Examiner states that claim 44 is objected to as depending on a rejected claim, but would be allowable if submitted in proper independent form. This rejection is respectfully traversed. Claim 44 was written in independent form in the amendment of September 11, 2003. Therefore, reconsideration and withdrawal of this rejection is respectfully requested.

Therefore, it is respectfully requested that the rejections under 35 USC 102 and the objection to claim 44 be reconsidered and withdrawn. It is respectfully requested that an early Notice of Allowance be issued in this application.

Respectfully submitted,



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